



State of New Jersey

DEPARTMENT OF HEALTH AND SENIOR SERVICES

OFFICE OF EMERGENCY MEDICAL SERVICES

PO BOX 360

TRENTON, N.J. 08625-0360

www.nj.gov/health

RICHARD J. CODEY
Acting Governor

FRED M. JACOBS, M.D., J.D.
Commissioner

November 13, 2005

Ms. Kathy Harris
Wheels, Inc. of NJ
11000 Crawford Place
Mount Laurel, NJ 08054

**Re: Notice of Proposed Assessment of Penalties:
Mobility Assistance Vehicle Service Provider**
Control Number: 05-B-065

Dear Ms. Harris:

The New Jersey Department of Health and Senior Services is vested with the responsibility of carrying out the provisions of the Health Care Facilities Planning Act (N.J.S.A. 26:2H-1, et seq.) which was enacted, in part, to ensure that hospital and related health care services rendered in New Jersey are of the highest quality. As defined at N.J.S.A. 26:2H-2b, health care services include ambulance services. In addition, in accordance with §6.4 and §6.6 of the New Jersey Medical Assistance and Health Services Act (N.J.S.A. 30:4D-1 et seq.), this Department is responsible for the development of minimum licensure requirements concerning the equipment, supplies and vehicles of providers of mobility assistance vehicle services.

Furthermore, N.J.S.A. 26:2H-5 grants the Commissioner of Health and Senior Services the power to inquire into health care services and to conduct periodic inspections with respect to the fitness and adequacy of the equipment and personnel employed by those services. As such, in furtherance of each of the aforementioned statutory objectives, the Department of Health and Senior Services (the Department) adopted regulations that govern the licensure and inspection of ambulance and mobility assistance vehicle service providers and their vehicles. Those regulations are set forth in their entirety at N.J.A.C. 8:40-1.1, et seq.

On June 27, 2005, staff of the Office of Emergency Medical Services (OEMS) conducted an unscheduled vehicle inspection of Wheels, Inc. Mobility Assistance Vehicle (MAV) vehicle #204, New Jersey license plate #X34V75, at the Atlantic City Medical Center, in Atlantic City, New Jersey.

The inspection revealed the following deficiencies:

1. A storage box for the emergency reflective triangles, along with the fire extinguisher, was not stored in a crashworthy manner;
2. The MAV operator, Rosiland Russell, was unable to produce a valid driver's license at the time of the inspection;
3. The MAV operator, Rosiland Russell, was unable to produce a current Passenger Assistance Techniques or Mobility Assistance Vehicle Technician certification card;
4. The MAV operator, Rosiland Russell, was unable to produce a current course completion cardiopulmonary resuscitation certification;
5. The front tires on the vehicle had worn outer edges with no visible tire tread;
6. The air conditioner was inoperable; and
7. The patient compartment area was dirty and unsanitary.

As you should know:

N.J.A.C. 8:40-4.4(e)7 states, "All equipment and supplies carried on the vehicle shall be stored in a crashworthy manner (that is, they shall remain firmly in place and shall not present a hazard to any vehicle occupant in the event of an accident or sudden change in vehicle speed or direction). There shall be sufficient cabinets and other storage spaces within the vehicle so as to meet this requirement. Crashworthy retention systems shall not incorporate rubber straps, "shock cords" or Velcro [FN®]-type closures."

N.J.A.C. 8:40-5.3(b)1 states, "A CPR certification card. Providers that routinely transport patients under eight years of age shall ensure that their MAV crewmembers have successfully completed the requirements for, and hold certification in, Pediatric Basic Life Support to the standards of the American Heart Association."

N.J.A.C. 8:40-5.3(b)2 states, "A valid PAT (Passenger Assistance Techniques) Technician certification card issued by Transportation Management Associates, Fort Worth, Texas, or a valid certification card indicating completion of a course that is similar in content and curriculum that has been approved by the Department, consistent with the minimum program standards and course objectives set forth in chapter Appendix B; or a valid MAV (Mobility Assistance Vehicle) Technician certification card issued by Medical Transportation Association of New Jersey, or a valid certification card indicating completion of a course that is similar in content and curriculum that has been approved by the Department, consistent with the minimum program standards and course objectives set forth in chapter Appendix B."

N.J.A.C. 8:40-4.7(c) states, "Tires shall be appropriate for the Gross Vehicle Weight of the vehicle and shall not be damaged or have excessive tread wear. Radial and non-radial tires shall not be mixed on the vehicle."

N.J.A.C. 8:40-4.6(a) states, "Each vehicle shall have a functional heater and air conditioner."

N.J.A.C. 8:40-4.5(a) states, "The interior of the vehicle, including all areas utilized for storage, and the equipment and supplies within the vehicle, shall be kept clean and sanitary. A disinfectant shall be routinely applied to all contact surfaces. The floor, walls and equipment shall be free of stains, dirt, debris, odors and insect infestation."

Therefore, pursuant to N.J.A.C. 8:40-7.2(c), violation of any portion of N.J.A.C. 8:40 by a provider may be cause for action against the provider, including, but not limited to, suspension or revocation of a provider's license, a formal written warning, monetary penalty, placing the provider's vehicle in "Department-Initiated-Out-of-Service" (DIOOS) status, placing of conditions for continued operation by the provider and/or refusal to issue or renew a license. As such, in accordance with N.J.A.C. 8:40-7.2(e)9, you are hereby assessed a penalty in the amount of \$250 for violation of N.J.A.C. 8:40-4.4 (e)7 for crashworthy storage, and a fine of \$250 for violation of N.J.A.C. 8:40-4.6(a) for no air conditioning.

Furthermore, you are being issued a formal warning for subsequent violations of N.J.A.C. 8:40-5.3(b), N.J.A.C. 8:40-4.7(c) and N.J.A.C. 8:40-4.5(a).

A certified check or money order in the amount of \$500 made payable to "Treasurer, State of New Jersey," must be submitted within 30 days from the date of this Notice. In accordance with N.J.S.A. 26:2H-16 and N.J.A.C. 8:40-7.2(h), failure to pay this penalty may result in the delinquent account being referred to the Office of the Attorney General for collection (N.J.S.A. 2A:58-1, et seq.), refusal by the Department to issue or renew a license and/or any such other action as authorized by law. Payment should be forwarded to:

New Jersey Department of Health & Senior Services
Office of Emergency Medical Services
P.O. Box 360
Trenton, NJ 08625-0360
Attn: Ms. Karen Halupke

Pursuant to N.J.S.A. 26:2H-13 and N.J.A.C. 8:40-7.3, you are entitled to a hearing before the Office of Administrative Law to contest this proposed penalty assessment. Your request for a hearing on this matter must be submitted in writing and must be accompanied by a response to the deficiency noted above. In the event that you request a hearing, this penalty shall be held in abeyance until such time as the hearing has been concluded and a final decision has been rendered.

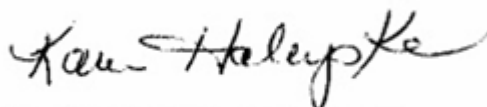
Your request for a hearing must be submitted within 30 days from the date of this Notice, and should be forwarded to:

New Jersey Department of Health & Senior Services
Office of Legal & Regulatory Affairs
Trenton, N.J. 08625-0360
Attn: Ms. Michele Stark

Please include control number 05-B-065 on all of your correspondence. **Finally, please note that failure to submit a request for a hearing within 30 days from the date of this Notice shall render this Notice final, and the entire \$250 shall be immediately due and payable.**

If you have any questions concerning this matter, please do not hesitate to contact Samuel Stewart, Esq. of my office at (609) 633-7777.

Sincerely,

A handwritten signature in cursive script, appearing to read "Karen Halupke".

Karen Halupke, R.N., M.Ed
Director, Emergency Medical Services

c: David Gruber, Assistant Commissioner
Michele Stark, OLRA
Samuel Stewart, Esq., OEMS
Charles McSweeney, OEMS

SENT VIA REGULAR US MAIL AND
CERTIFIED MAIL #7002 2410 0003 3470 6436
RETURN RECEIPT REQUESTED